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DAV1172.006APC  
 DEA/NSB (gm)

U.S. APPLICATION NUMBER NO. 10/573,372	FIRST NAMED APPLICANT James Langham Dale	ATTY. DOCKET NO. DAV1172006APC
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INTERNATIONAL APPLICATION NO.
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PCT/AU04/01300

I.A. FILING DATE 09/23/2004	PRIORITY DATE 09/25/2003
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20995  
 KNOBBE MARTENS OLSON & BEAR LLP  
 2040 MAIN STREET  
 FOURTEENTH FLOOR  
 IRVINE, CA 92614

CONFIRMATION NO. 2163

371 FORMALITIES LETTER



\*OC000000020267039\*

Date Mailed: 09/01/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 03/24/2006
- Copy of the International Search Report filed on 03/24/2006
- Preliminary Amendments filed on 03/24/2006
- Request for Immediate Examination filed on 03/24/2006
- U.S. Basic National Fees filed on 03/24/2006
- Priority Documents filed on 03/24/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

**PART 1 - ATTORNEY/APPLICANT COPY**

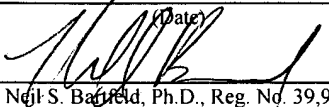
U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/573,372	PCT/AU04/01300	DAV1172006APC

<b>Response to Missing Requirements Under 35 USC § 371</b>	Attorney Docket No.: DAVI172.006APC First Named Inventor: Dale et al. Int'l Application No.: PCT/AU2004/001300 US Application No.: 10/573,372 Entered National Phase: March 24, 2006 Title: BANANA RESISTANCE GENES AND USES THEREOF
	Direct all correspondence to Customer No.: 20995

Date: October 26, 2006  
Page 1 of 2

**Mail Stop PCT**  
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I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450, on

October 26, 2006  
  
 Neil S. Bagfield, Ph.D., Reg. No. 39,901

Applicant herewith submits to the US Designated/Elected Office (DO/EO/US) the following items and other information:

- (X) This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 USC 371.
- (X) Copy of the Notification of Missing Requirements under 35 USC 371 dated September 1, 2006.
- (X) An Oath or Declaration signed by the inventors (35 USC 371(c)(4)) in 3 pages.
- (X) Power of attorney form and copy of assignment in 2 pages.
- (X) Statement under 37 C.F.R. 3.73(b) in 1 page.
- (X) Return prepaid postcard.

**FILING FEES NOT YET PAID:**

FEE CALCULATION				
FEE TYPE		LARGE FEE	CALCULATION	TOTAL
Late Oath/Decl.	37 CFR § 1.492(h)	1617 (\$130)		\$130
			<b>SUB TOTAL</b>	\$130
The present application qualifies for Small Entity status under 37 CFR § 1.27. Fee reduced by 1/2.				(\$65)
			<b>TOTAL FEE DUE</b>	<b>\$65</b>

- (X) Please note that this application qualifies for small entity status. Please use the excess filing fees paid on March 24, 2006 toward the \$65 surcharge for the late oath/declaration. If this is not possible, then please charge Deposit Account #11-1410.

**Response to Missing  
Requirements Under  
35 USC § 371**

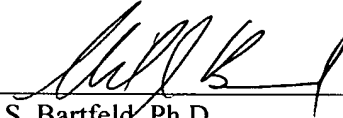
Attorney Docket No.: DAVI172.006APC  
First Named Inventor: Dale et al.  
Int'l Application No.: PCT/AU2004/001300  
US Application No.: 10/573,372  
Entered National Phase: March 24, 2006  
Title: BANANA RESISTANCE GENES AND USES THEREOF

**Direct all correspondence to Customer No.: 20995**

Date: October 26, 2006

Page 2 of 2

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 11-1410.

  
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